



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha14010034  
EEOC No. 24F-2014-00314

██████████,  
Complainant,

v.

ALLIANCE EMS/TRANSPORT LOVING CARE, INC.,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On January 21, 2014, ██████████ ("Complainant") filed a Complaint with the Commission against Alliance EMS/Transport Loving Care, Inc. ("Respondent") alleging discrimination on the basis of disability in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) and Title I of the Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Respondent subjected Complainant to an adverse employment action because of his disability. In order to prevail, Complainant must show that: (1) he has a disability as defined under the applicable laws; (2) he was subjected to an adverse employment action; (3) he was meeting Respondent's legitimate business expectations; and (4) similarly-situated employees without impairment were treated more favorably under similar circumstances. It is clear that Complainant is a member of a protected class by virtue of his disability and that he was subjected to an adverse employment action when he was laid off on or about January 3, 2014. Further, no evidence has been submitted or uncovered to show that Complainant was not meeting Respondent's legitimate business expectations at the time of his layoff.

By way of background, Respondent hired Complainant as an Emergency Medical Service Educator/Trainer on or about June 6, 2011. During the course of Complainant's tenure with Respondent, he



met Respondent's legitimate business expectations. However, during his time with Respondent, Complainant underwent a medical procedure that required him to take three weeks off from work. Upon his return in January 2014, Complainant received a letter indicating that his position was one of three being downsized to accommodate for the "new healthcare act and the impact it has had on [Respondent's] income." Nonetheless, evidence suggests that another individual without impairment was hired during Complainant's recovery period and retained after Respondent downsized its workforce. It is also important to note that the letter indicated that Respondent "could offer [Complainant] a position in a different area...but that I understand you are not allowed to perform that job function per you doctor" and that Respondent would not oppose Complainant from seeking unemployment. Ironically, during the course of the investigation, Respondent submitted a letter indicating that it rehired Complainant "in June" in that he has been in the CEO's "employ since the incident."

Despite Respondent's assertions, there is insufficient evidence to support its assertions. Rather, Respondent has failed to abide by the Commission's request for information related to the downsizing or to otherwise participate in the investigatory process. Moreover, Respondent failed to respond to a subpoena issued by the Commission on or about January 6, 2015, despite an individual signing for receipt of the subpoena on or about January 9, 2015. As such and based upon the aforementioned, probable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

January 27, 2015

Date

Akia A. Haynes

Akia A. Haynes, Esq.,

Deputy Director

Indiana Civil Rights Commission